IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NICOLA DEIULIIS, a minor, by his guardian, ANNETTE DEIULIIS, and ANNETTE DEIULIIS in her own right,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 05-01077
BOY SCOUTS OF AMERICA NATIONAL COUNCIL,	)	Chief Judge Ambrose
Defendant.	)	

CONCISE STATEMENT OF MATERIAL FACTS
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Pursuant to LR 56.1.B.1, Defendant, Boy Scouts of America National Council ("BSA"), respectfully submits this Concise Statement of Material Facts in Support of its Motion for Summary Judgment.

For the sole purpose of this Motion, the following facts are undisputed, material and are presumed to be true:

1. Plaintiff Nicola Deiuliis ("Nicola"), a minor, was severely injured in an automobile accident on August 15, 2004. Complaint, ¶¶ 2-3. (Appendix, Ex. A).

2. The accident in question occurred on State Route 366 in Washington Township, Westmoreland County. Ex. A, ¶ 2; Rule 26(f) Report (Appendix Ex. B), ¶ 2.

3. The vehicle involved in the accident, a van, was driven by Mr. Samuel Lombardo while returning from a scout troop outing in Ohio Pyle State Park. Ex. B, ¶ 2.

4. At the time of the accident, Mr. Lombardo was serving as an unpaid volunteer to Scout Troop No. 903, which was sponsored and operated by Mount St. Peter

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Church, located in New Kensington, Pennsylvania. Affidavit of Michael C. Childers, ¶ 10. (Appendix Ex. C).

5. At no time was Mr. Lombardo ever an employee, paid or unpaid, of BSA. Ex. C, ¶ 11.

6. BSA is a not-for-profit corporation created by act of Congress (36 U.S.C. § 30901).

7. The National Office of BSA is located in Irving, Texas. Ex. C, ¶ 3.

8. Within the United States of America are local Boy Scout Councils, each of which operates within its defined geographical area. In its area the local council makes the scouting program of youth development available for use by local organizations which desire to sponsor and operate a boy scout troop. Id., ¶ 4

9. These councils are self-sustained organizations, which receive no day-to-day supervision and no financial support from BSA. Id. In addition, these councils are separate independent corporate entities established under the laws of their respective states. Id., ¶ 5.

10. BSA issues charters to schools, churches or other civic organizations within the councils and districts that authorize the organization to sponsor/operate a local unit, or "troop." Id.

11. The events as alleged in this lawsuit took place within the geographical area served by the Greater Pittsburgh Council of the Boy Scouts of America. Id., ¶ 6.

12. The Greater Pittsburgh Council is incorporated under the laws of Pennsylvania and is therefore an entirely separate corporate and legal entity from the BSA. Id., ¶ 4.

13. Pursuant to its Charter and Bylaws, BSA does not in any way hire, fire, or in anyway supervise the employees of the Greater Pittsburgh Council. Id., ¶ 7. Local troops such as Troop 903 do not request or require the permission of BSA before undertaking activities such as those involved in this case. Id.

14. As an unpaid adult volunteer to Troop 903, Mr. Lombardo had no employment or agency relationship whatsoever with BSA. Id., ¶ 11.

Respectfully submitted,

BURNS, WHITE & HICKTON

BY: ______________________

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Dated: March 9, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Concise Statement of Material Facts in Support of Motion for Summary Judgment, has been served upon all counsel of record by United States First Class Mail, postage prepaid, this 9th day of March, 2006, addressed as follows:

Victor H. Pribanic, Esquire
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